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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/656,742 | 09/07/2000 | YURIY REZNIKOV | KSU-188 | 1368 |

7590 08/28/2002

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[REDACTED] EXAMINER

TON, MINH TOAN T

[REDACTED] ART UNIT [REDACTED] PAPER NUMBER

2871

DATE MAILED: 08/28/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|------------------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 09/656,742 | REZNIKOV ET AL. <i>MC</i> | |
| | Examiner Toan Ton | Art Unit 2871 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 03 May 2002.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) 1-23, 25 and 26 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 24 and 27 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>4,5</u> | 6) <input type="checkbox"/> Other: _____ |

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Election/Restriction

1. An election of claims 24, 27 is acknowledged. It is noted that the method claimed steps (from claim 11) in claim 27 have not been given patentable weight because they have been held that even though product-by-process claims are limited by and defined by process, determination of patentability is based on the product itself. See *In re Thorpe*, 777 F.2d 695, 697, 227 USPQ 964, 966 (Federal Cir. 1985).

There are several different steps of making the product as claimed in claims 24, 27, e.g., light-irradiation is not required (rather rubbing can be used).

Remarks (product-by-process limitations)

2. Limitations “has been irradiated with light that overlaps the absorption spectrum of the second crystals” of claim 24 have not been given patentable weight because they have been held that even though product-by-process claims are limited by and defined by process, determination of patentability is based on the product itself. See *In re Thorpe*, 777 F.2d 695, 697, 227 USPQ 964, 966 (Federal Cir. 1985).

The method claimed steps (from claim 11) in claim 27 have not been given patentable weight (see detailed explanations above).

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Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 24, 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gibbons et al (US 4974941, IDS reference).

Gibbons discloses an alignment layer comprising anisotropically absorbing molecules, wherein the anisotropically absorbing molecules comprises thermotropic liquid crystal compounds.

Gibbons discloses that his invention employs *conventional* liquid crystal display configuration (see Figure 1), wherein the conventional configuration comprises a pair of substrates, a liquid crystal medium sandwiched between the substrates, each substrate comprises an electrode formed thereon, an alignment layer formed at least on one of the substrates.

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Contact Information

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to T. TON whose telephone number is (703) 305-3489. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0956.

August 23, 2002



TOANTON
PRIMARY EXAMINER